

EXHIBIT A

Julie Axelrod

From: Julie Axelrod
Sent: Friday, May 26, 2017 12:55 PM
To: 'Kenney, Devin (ENRD)'; Dale Wilcox; lesleyblackner@gmail.com; Chris Hajec
Cc: Bosshardt, Stacey (ENRD); Shugert, Shawn (ENRD); Glazer, David (ENRD); Russell, Lisa (ENRD)
Subject: RE: Whitewater Draw -- Federal Defendants' Intention to File a Motion to Stay

Thank you for your answer Counsel. We do not consent to the defendants' motion to stay proceedings.

Best Regards,
Julie

From: Kenney, Devin (ENRD) [mailto:Devin.Kenney@usdoj.gov]
Sent: Friday, May 26, 2017 11:46 AM
To: Julie Axelrod <jaxelrod@irli.org>; Dale Wilcox <dwilcox@irli.org>; lesleyblackner@gmail.com; Chris Hajec <chajec@irli.org>
Cc: Bosshardt, Stacey (ENRD) <Stacey.Bosshardt@usdoj.gov>; Shugert, Shawn (ENRD) <Shawn.Shugert@usdoj.gov>; Glazer, David (ENRD) <David.Glazer@usdoj.gov>; Russell, Lisa (ENRD) <Lisa.Russell@usdoj.gov>
Subject: RE: Whitewater Draw -- Federal Defendants' Intention to File a Motion to Stay

Counsel, .

Thank you for your response yesterday to our request.

The Department of Homeland Security affirms its commitment to comply with all applicable law, including the National Environmental Policy Act (NEPA). Any actions the Secretary implements following his review under the Executive Orders will be in compliance with NEPA where applicable. The Department in no way admits any allegation of non-compliance with NEPA.

Regardless of any disagreements between the parties about whether DHS has adequately complied with NEPA, it is in the best interest of both parties and the Court to stay the case until that review process is complete because that review could alter the scope of the case and streamline the issues that require resolution by the Court. Were the case to proceed forward at this time, each of the more than 33 actions Plaintiffs challenge would need to be addressed, briefed, and ruled upon. Given that many of the challenged actions may soon be amended, withdrawn or superseded, much of this effort would likely be wasted. It makes little sense to engage in such effort now rather than briefly staying the case to permit the Secretary time to accomplish the required review.

I hope this addresses your questions. Please let us know your position on the motion.

Thanks,

Devin

From: Julie Axelrod [mailto:jaxelrod@irli.org]
Sent: Thursday, May 25, 2017 3:39 PM
To: Kenney, Devin (ENRD) <DKenney@ENRD.USDOJ.GOV>; Dale Wilcox <dwilcox@irli.org>; lesleyblackner@gmail.com; Chris Hajec <chajec@irli.org>

Cc: Bosshardt, Stacey (ENRD) <SBosshardt@ENRD.USDOJ.GOV>; Shugert, Shawn (ENRD) <SSHugert@ENRD.USDOJ.GOV>; Glazer, David (ENRD) <DGlazer@ENRD.USDOJ.GOV>

Subject: RE: Whitewater Draw -- Federal Defendants' Intention to File a Motion to Stay

Dear Counsel:

To help us decide whether to consent to or oppose your motion, we would appreciate answers to the following questions:

- 1) Will this ongoing review of immigration related policies by DHS include a review of whether DHS ought to incorporate NEPA compliance, specifically with respect to the environmental impact of its past and/or future actions relating to the entry and settlement of foreign nationals into the United States, in its Instruction Manual, and whether it ought to amend its Instruction Manual to fully comply with NEPA with respect to the entry and settlement of foreign nationals into the United States?
- 2) Will this ongoing review of immigration related policies by DHS include a consideration of whether DHS has properly followed NEPA and the APA with respect to those thirty-three federal actions set forth in the Complaint at paragraph 53?
- 3) Will this ongoing review of immigration related policies by DHS include a consideration of whether DHS should prepare a Programmatic EIS for its past and/or future actions relating to the entry and settlement of foreign nationals into the United States?
- 4) Will this ongoing review of immigration related policies by DHS include a consideration of whether the Categorical Exclusion issued by DHS on March 11, 2016 for its Final Rule entitled "Improving and Expanding Training Opportunities for F-1 Nonimmigrant Students with STEM Degrees and Cap-Gap Relief for all Eligible F-1 Students" complies with NEPA and the APA?
- 5) Will this ongoing review of immigration related policies by DHS include a consideration of whether the EA and FONSI issued for the June 2, 2014 Action "Response to the Influx of Unaccompanied Alien Children" complies with NEPA and the APA?

Please let me know. Thank you.

Best,
Julie

From: Kenney, Devin (ENRD) [<mailto:Devin.Kenney@usdoj.gov>]

Sent: Thursday, May 25, 2017 9:11 AM

To: Julie Axelrod <jaxelrod@irli.org>; Dale Wilcox <dwilcox@irli.org>; lesleyblackner@gmail.com

Cc: Bosshardt, Stacey (ENRD) <Stacey.Bosshardt@usdoj.gov>; Shugert, Shawn (ENRD) <Shawn.Shugert@usdoj.gov>; Glazer, David (ENRD) <David.Glazer@usdoj.gov>

Subject: Whitewater Draw -- Federal Defendants' Intention to File a Motion to Stay

Counsel,

We will be filing a motion seeking a stay of this case until September 7, 2017. Please let us know your position on this request. Federal Defendants intend to seek a stay of this action because two Executive Orders issued by President Trump since this lawsuit was filed require DHS to review many of the immigration-related policies Plaintiffs challenge, and may ultimately result in changes to some of those actions that would narrow the issues in dispute in this

litigation. Given this ongoing review of immigration policies, a temporary stay would be in the benefit of both parties as the completion of this review would likely simplify the “issues, proof, and questions of law” at issue. *Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1110 (9th Cir. 2005). These two Executive Orders, Executive Order 13768, “Enhancing Public Safety in the Interior of the United States,” and Executive Order 13767, “Border Security and Immigration Enforcement Improvements,” are attached to this email.

The requested stay would give the Federal Defendants the remainder of the 180-day review period prescribed by the Orders, plus 45 days to implement any recommendations that result from the Secretary’s review. At the end of the stay, the parties would submit a joint status report concerning further proceedings in this matter. Alternatively, Federal Defendants will request that, if the Court declines to grant a stay, the Court grant Federal Defendants 21 days from the date of its Order to respond to the Complaint.

Please let us know your response and if you have any other questions. Thanks,

Devin

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